

INSTRUCTIONS FOR FILING A PETITION FOR LIMITED GUARDIANSHIP OF A MINOR

Please read these entire instructions carefully

COMPLETION OF FORMS: All required forms must be typed or legibly printed in ink. All forms must be accurately and fully completed. Illegible or incomplete forms will not be accepted for filing.

INDIAN CHILD: There are completely different forms and requirements if the minor is an Indian Child as defined by the Indian Child Welfare Act, 25 USC 1901 *et seq.* Do not rely in these instructions if the minor is an Indian Child.

LEGAL ADVICE: By law, court personnel are prohibited from giving legal advice. If you have questions regarding this procedure, or are unable to properly complete the forms, you should seek assistance from a qualified attorney or the Legal Assistance Center.

PETITIONER: In a limited guardianship, the parent(s) with custody of the minor must file the Petition.

COSTS: The costs in connection with filing a Petition for Appointment of Limited Guardian for a Minor are:

- **Filing Fee:** The Filing Fee for each Petition for Appointment of a Limited Guardian for a Minor is **\$175**, payable via cash, check or money order payable to the Kent County Probate Court. If the petitioner is indigent and unable to afford this fee, he or she must first file an **Affidavit for Waiver/Suspension of Fees**. The clerk's office will provide a copy of this form free of charge. You will not be permitted to file your Petition for Appointment of Guardian until either your request for Waiver of Fees is granted or you pay the \$175 Filing Fee.
- **Certified Copy:** If a limited guardian is appointed for the minor, the fee for obtaining a **Certified Copy** of the Letters of Guardianship is **\$12**. This fee may not be waived.
- **Publication Fee:** If the address of an Interested Person is not known, you will be required to publish the required Notice and must pay the Grand Rapids Legal News for the publication fee, which is approximately **\$80**. This fee may not be waived.

INVESTIGATION BY CHILD PROTECTIVE SERVICES: Effective December 6, 2013, upon the filing of any Petition for Appointment of a Limited Guardian for a Minor, the court will appoint the Department of Human Services to investigate the proposed guardianship. A representative of CPS will visit the home of the proposed guardian and make such other investigation as is appropriate.

HEARINGS: The hearing on a Petition for Appointment of a Limited Guardian for a Minor will generally take place at least 35 days after filing of the Petition. This is to allow time for CPS to conduct its investigation and prepare its report.

TEMPORARY GUARDIANSHIP: If there is a medical or other emergency or the minor is in imminent danger so that earlier appointment of a temporary guardian is necessary, the petitioner may request appointment of a Temporary Guardian by competing paragraph 9 of the Petition. In this case there will be two hearings, and when you file your Petition you will need to provide two completed copies of the:

- Notice of Hearing
- Order Regarding Appointment of Guardian
- Acceptance of Appointment; and
- Letters of Guardianship

One set will be for the temporary hearing and the other for the regular hearing.

Note also that if the minor is 14 years of age or older, the minor must be personally served with a copy of the Petition and Notice of the Temporary Hearing prior to the temporary hearing, and the minor has a right to attend the hearing.

INTERESTED PERSONS: The Interested Persons are defined by statute and court rule and must be served with a copy of the Petition for Appointment of Guardian and Notice of Hearing. It is the responsibility of the Petitioner, not the Court, to serve the Interested Persons. In the case of a guardianship for a minor, the Interested Persons include:

- The minor, if 14 years of age or older
- Each person who has had the principal care and custody of the minor during the 63 days preceding the filing of the Petition for Appointment of Guardian
- The parents of the minor
- The nominated guardian(s)

ITEMS REQUIRED IN ADDITION TO REQUIRED FORMS: In addition to the required forms listed below, you will need to provide to the Court at the time you file your Petition, each of the following:

- A copy of the minor's birth certificate
- A copy of the latest Court Order affecting the child (i.e., Judgment of Divorce, Judgment of Paternity, Child Support Order or Custody Order. These can be obtained from the Circuit Court in the county in which the Order was entered.
- Copy of driver's license or photo ID of proposed guardian.

REQUIRED FORMS: The following forms are required to be completed and filed at the time you file your Petition for Appointment of Limited Guardian of Minor. On each form on the line next to "In the matter of" insert the name of the minor.

- **PC650 – Petition for Appointment of Limited Guardian of a Minor** - Detailed instructions are provided below.
- **PC652 – Limited Guardianship Placement Plan** - The Limited Guardianship Placement Plan (LGPP) is like a contract between the parent(s), the limited guardian(s) and the court. It sets forth the reasons for the guardianship, the visits and contact that will occur between the parent(s) and the child during the guardianship to maintain the parent and child relationship, the financial support that will be provided by the parent during the term of the guardianship, and the plan for how long the guardianship is to continue. Take your time and be very thorough in completing this document. If you are not specific enough or if the plan for how long the guardianship is to continue does not address all of the issues which led to the need for the guardianship, then the court may refuse to approve the LGPP without modifications. The LGPP needs to be signed by the parent(s) with custody and the proposed guardian(s). The parent(s) should understand that a failure to substantially comply with the LGPP without good cause could ultimately result in termination of parental rights.
- **PC670 – Social History for Minor Guardianships** - Complete fully, with a separate first page for each proposed co-guardian.
- **PC562 – Notice of Hearing** - The court will insert the date and time of hearing. The remainder of the form should be completed by the petitioner.
- **PC635F – Order Appointing Person to Review/Investigate Guardianship** - Insert the name of the minor in the first line.

- **PC653R – Order Regarding Appointment of Guardian** - Complete this form as you would like the court to enter it. Be sure to insert the name(s), address(es) and phone number(s) of the proposed guardian(s) in paragraph 10.
- **PC571 – Acceptance of Appointment** - Complete and sign one form for each proposed co-guardian.
- **PC633R – Letters of Guardianship** - Insert the name(s), address(es), and telephone number(s) of all proposed guardian(s) in the boxes, printing clearly. All guardians are shown on one form (there are not separate Letters for each guardian). The court will complete the remainder of the form.
- **PC564 – Proof of Service** – You, the petitioner, must serve the Interested Persons with copies of the Petition for Appointment of Limited Guardian, the LGPP, and the Notice of Hearing. The court will not do this for you. You may serve by first class mail or personally (do not use certified or registered mail). If service is by first class mail, the documents must be mailed at least 14 days prior to the hearing. If service is by personally handing the documents to the individual, the documents must be served personally at least 7 days prior to the hearing. The Proof of Service must be completed by the person who performed the mailing or personal service. List the documents served in section 1, and complete section 2 for persons served by mail and section 3 for persons served personally. Sign and date the form and file it with the Court at least 5 days prior to the hearing.

ADDITIONAL REQUIRED FORMS IF THE ADDRESS OF AN INTERESTED PERSON IS UNKNOWN:

- **PC617 – Declaration of Intent to Give Notice by Publication** - Insert “Petition for Appointment of Limited Guardian, LGPP and Notice of Hearing” as the documents, and insert the name(s) and last known address(es) of the person(s) whose current whereabouts are unknown. You have a duty to use diligence to attempt to locate a current address of an Interested Person. Describe in detail what you have done to find the current address, and date and sign the form.
- **PC563 – Publication of Notice of Hearing** - Insert name(s) of person(s) whose whereabouts are unknown, and fill in date, time and location of hearing. The purpose of the hearing is: “For the appointment of [*name of proposed guardian(s)*] as limited guardian(s) for the minor.” Date and complete name and address section. The form will need to be published in the Grand Rapids Legal News at least 14 days prior to the hearing. The Legal News publishes on Wednesdays. The petitioner is responsible for paying the cost of publication, which is approximately **\$80**. This must be paid a week prior to the hearing to allow time for the Legal News to transmit the Affidavit of Publication, which it will not do until it is paid.

ADDITIONAL REQUIRED FORM IF A PARENT IS INCARCERATED: If a parent is incarcerated in the custody of the Michigan Department of Corrections (not a county jail), the following additional form is required. The address of a prisoner can be located by doing an Offender Search at www.michigan.gov/corrections.

- Motion to Permit Incarcerated Party to Participate In Telephonic Proceeding

FILING AND COPIES OF FORMS: All of the required documents and forms should be filed with the court at the same time. Before filing, make yourself a copy of the Petition for Appointment of Limited Guardian, the LGPP, and the Notice of Hearing (as well as any other forms of which you want copies). The court will insert the date and time of the hearing on your copy of the Notice of Hearing. Then you can make as many photocopies of your Petition, LGPP and Notice of Hearing as you will need in order to serve the Interested Persons. The court charges \$2 per page for copies, so you should make your own.

DETAILED INSTRUCTIONS FOR COMPLETION OF PETITION FOR APPOINTMENT OF LIMITED GUARDIAN FOR MINOR:

- If the parents were divorced, or there was a paternity action or a support or custody case, or the child was involved in child protective or juvenile proceedings, you must list the court that has/had prior jurisdiction in section 2. Obtain the case number from the previous court and include it.
- In section 3, insert the minor's date of birth, gender, home address, and current address if different from home address.
- In section 4 indicate whether or not the minor is an **Indian Child**. An Indian Child is an unmarried person under age 18 who is either a member of an Indian tribe or eligible for membership in an Indian tribe as determined by that Indian tribe. If you check either the box that indicates that the minor is an Indian Child or the box indicating that it is unknown whether the minor is an Indian Child, the Court will not accept your filing as the forms for guardianship of an Indian Child are completely different. So you need to determine whether the child is an Indian Child before you file anything.
- Complete section 5 regarding the Interested Persons after reading information on Interested Persons in these instructions. Note that an Interested Person is not simply someone who cares about the minor; an Interested Person is a person who has a **legal** interest in the proceeding. No one with a legal interest can be excluded. If you are unable to obtain an address for an Interested Person, you are required to publish. See the information on Additional Required Forms if the Address of an Interested Person Is Unknown in these instructions. The petitioner must pay the cost of publication.
- In section 8 complete the name(s), address(es) and phone number(s) of the proposed guardian(s).
- Complete section 9 if any other relief is requested or if an emergency exists and a temporary guardian is requested (but please first review the information on Temporary Guardianship in these instructions).
- Date and sign the petition.
- If the minor is 14 years of age or older, and wishes to nominate a guardian, the minor may complete section 11, and date and sign it.

ON THE DAY OF THE HEARINGS: Please report to the Probate Court Clerk's office (Suite 2500 of the Courthouse) at least 10 minutes prior to your scheduled hearing, to be advised of the courtroom where your hearing will be held. Effective January 1, 2017, all new minor guardianship cases and most existing minor guardianship cases are assigned to **Judge Terence J. Ackert** and hearings conducted in **Courtroom 10B**. However, there may be a few cases with pending issues on 1/1/17 that will remain with **Judge David M. Murkowski (Courtroom 9C)** until resolution. On some days a number of cases are scheduled for the same block of time, and on other days a cases is scheduled for its own block of time. It is very important that you be in the correct Courtroom at the date and time indicated on your Notice of Hearing.

ADJOURNMENTS: A hearing on a minor guardianship may be adjourned for any number of reasons. To avoid wasting a trip to the Courthouse you can check to make sure your hearing is still scheduled by going to www.accesskent.com/ProbateHearing/. It is wise to do this the evening before your hearing. Simply insert the case number (i.e., 13 123456 GM) and click submit. If the hearing has been adjourned it will say so in the far right column and any new hearing date will be shown below.